

Remarks

In view of the foregoing amendment and the following response, Applicant respectfully requests favorable reconsideration of the claims pending in this application. Claims 1-12 are pending. Claims 1, 3-7 and 11 have been withdrawn from consideration by Examiner. By amendment Applicant adds new claims 13-16.

Responsive to the Examiner's comments in paragraph 2 of the 3/25/2003 Office Action, Applicant deletes the abstract as filed and presents a new abstract.

As for the comments relating to the ENBREL trademark, Applicant believes that all uses of the mark are proper. If the Examiner identifies an instance in the specification in which the mark is not in all capital letters, Applicant respectfully requests that the Examiner direct Applicant's attention to the instance.

In paragraph 4, the Examiner rejects claim 2 under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,072,037 ('037 patent) in view of Chabaud et al. *Arthritis and Rheumatism*, 1999. Applicants submit that this rejection is more properly a 103(c) rejection because it is '037 contains subject matter developed by another person in which the subject matter and the claimed invention were, at the time the invention was made, owned by the same person.

Applicant submits that the subject matter of the '037 patent was owned by Immunex at the time the presently claimed invention was made and the inventors of the present claims were subject to an obligation of assignment to Immunex at the time the present invention was made. For completeness, copies of the Assignments for '037 and the present application accompany this paper. Applicant submits that this showing overcomes this rejection and respectfully requests the Examiner withdraw the rejection.

In paragraph 5, the Examiner rejects claims 8-10 and 12 under 35 U.S.C. 103(a) as being unpatentable over the '037 patent in view of Chabaud et al. as applied to the rejection of claim 2 and further in view of Arend et al., *Arthritis and Rheumatism*. Applicant respectfully submits that this is more properly a 103(c) rejection and the showing above overcomes this rejection. In the alternative, claims 8-10 and 12 depend ultimately from claim 2 and in view of Applicant's above arguments in support of the patentability of claim 2, Applicant respectfully submits that claims 8-10 and 12 are patentable. Thus, Applicant requests that the Examiner withdraw this rejection.

Appl. No. 10/033,522
Amdt. Dated June 25, 2003
Reply to Office Action of March 25, 2003



In view of the foregoing, Applicant respectfully submits that the claims pending in this application are in condition for allowance, and requests a notice to that effect.

Respectfully submitted,

Janis C. Henry
Registration No. 34,347

Immunex Corporation
Law Department
51 University Street
Seattle, WA 98101
Telephone (206) 587-0430

RECEIVED

JUL 02 2003

TECH CENTER 1600/2900

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Date: June 25, 2003

Signed:
Nanci M. Kertson

ef253704 6/25/03